

AMENDED IN SENATE APRIL 17, 2007

SENATE BILL

No. 915

Introduced by Senator Hollingsworth

February 23, 2007

~~An act to amend Section 5120 of the Welfare and Institutions Code, An act to amend Section 1566.3 of, and to add Section 1566.35 to, the Health and Safety Code, relating to community care facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 915, as amended, Hollingsworth. Group homes housing sex offenders: zoning.

Existing law prohibits a conditional use permit, zoning variance, or other zoning clearance from being required of any residential facility that serves 6 or fewer persons that is not required of a family dwelling of the same type in the same zone.

This bill would authorize a city, county, or city and county, to adopt a local ordinance to zone as an adult oriented business, any community care facility that houses a parolee for whom registration as a sex offender is required.

~~Existing law establishes the State Department of Social Services and sets forth its duties and responsibilities relating to the licensure and regulation of community care facilities. Existing law establishes the State Department of Mental Health and sets forth its duties and responsibilities relating to the provision of mental health services.~~

~~Existing law establishes the policy of the state that mental patients be provided treatment in community settings, and prohibits discrimination in the enactment of zoning ordinances based upon the use of property for psychiatric care and treatment of patients, and~~

~~declares that the use of property for the care of 6 or fewer mentally disordered persons is a residential use for zoning purposes.~~

~~This bill would make technical, nonsubstantive changes.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1566.3 of the Health and Safety Code is*
2 *amended to read:*

3 1566.3. (a) Whether or not unrelated persons are living
4 together, a residential facility that serves six or fewer persons shall
5 be considered a residential use of property for the purposes of this
6 article. In addition, the residents and operators of such a facility
7 shall be considered a family for the purposes of any law or zoning
8 ordinance which relates to the residential use of property pursuant
9 to this article, *except as provided in Section 1566.35.*

10 (b) For the purpose of all local ordinances, a residential facility
11 that serves six or fewer persons shall not be included within the
12 definition of a boarding house, rooming house, institution or home
13 for the care of minors, the aged, or the mentally infirm, foster care
14 home, guest home, rest home, sanitarium, mental hygiene home,
15 or other similar term which implies that the residential facility is
16 a business run for profit or differs in any other way from a family
17 dwelling, *except as provided in Section 1566.35.*

18 (c) This section shall not be construed to prohibit any city,
19 county, or other local public entity from placing restrictions on
20 building heights, setback, lot dimensions, or placement of signs
21 of a residential facility which serves six or fewer persons as long
22 as such restrictions are identical to those applied to other family
23 dwellings of the same type in the same zone.

24 (d) This section shall not be construed to prohibit the application
25 to a residential care facility of any local ordinance that deals with
26 health and safety, building standards, environmental impact
27 standards, or any other matter within the jurisdiction of a local
28 public entity if the ordinance does not distinguish residential care
29 facilities which serve six or fewer persons from other family
30 dwellings of the same type in the same zone and if the ordinance
31 does not distinguish residents of the residential care facilities from
32 persons who reside in other family dwellings of the same type in

the same zone. Nothing in this section shall be construed to limit the ability of a local public entity to fully enforce a local ordinance, including, but not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

(f) Use of a family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1. 5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent such sections are applicable to residential facilities providing care for six or fewer residents.

(g) For the purposes of this section, “family dwelling,” includes, but is not limited to, ~~single-family~~ *single family* dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

SEC. 2. Section 1566.35 is added to the Health and Safety Code, immediately following Section 1566.3, to read:

1566.35. Notwithstanding any provision of law to the contrary, a city, county, or city and county, may adopt a local zoning ordinance to require zoning as an adult oriented business for any community care facility that houses a parolee for whom registration is required pursuant to Section 290 of the Penal Code.

~~SECTION 1. Section 5120 of the Welfare and Institutions Code is amended to read:~~

~~5120. It is the policy of this state as declared and established in this act and in the Lanterman-Petris-Short Act that the care and treatment of mental patients be provided in the local community.~~

~~(b) In order to achieve uniform statewide implementation of the policies of this act, it is necessary to establish the statewide policy that, notwithstanding any other provision of law, no city or county shall discriminate in the enactment, enforcement, or administration of any zoning laws, ordinances, or rules and regulations between the use of property for the treatment of general hospital or nursing~~

1 ~~home patients and the use of property for the psychiatric care and~~
2 ~~treatment of patients, both inpatient and outpatient.~~
3 ~~(e) Health facilities for inpatient and outpatient psychiatric care~~
4 ~~and treatment shall be permitted in any area zoned for hospitals~~
5 ~~or nursing homes, or in which hospitals and nursing homes are~~
6 ~~permitted by conditional use permit.~~

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